

requested, a bill for such fee. The bill will contain an itemized statement of the applicable costs, and instructions on the time and manner of payment. Payment must be made in accordance with the bill. If the recipient of the bill objects to the reasonableness of the costs assessed he or she may, within 30 days of receipt, file written objections with NOAA at the address stated in the bill. NOAA will promptly review the written objections and within 30 days mail the final determination to the party who filed them. NOAA's determination will constitute final agency action on the matter.

§ 904.508 Voluntary forfeiture by abandonment.

(a) The owner of seized property may voluntarily forfeit all right, title, and interest in the property by abandoning it to NOAA. Voluntary forfeiture by abandonment under this section may be accomplished by various means, including, but not limited to: expressly waiving any claim to the property by voluntarily relinquishing any right, title, and interest by written agreement or otherwise; or refusing or otherwise avoiding delivery of returned property; or failing to respond within 90 days of service of any certified or registered notice regarding a return of seized property issued under § 904.510(b).

(b) Property will be declared finally forfeited by abandonment, without recourse, upon a finding of abandonment by NOAA.

§ 904.509 Disposal of forfeited property.

(a) *Delivery to Administrator.* Upon forfeiture of any fish, wildlife, parts or products thereof, or other property to the United States, including the abandonment or waiver of any claim to any such property, it will be delivered to NOAA for storage or disposal according to the provisions of this section.

(b) *Disposal.* Disposal may be accomplished by one of the following means unless the property is the subject of a petition for remission or mitigation of forfeiture or disposed of by court order:

(1) Return to the wild;

(2) Use by NOAA or transfer to another government agency for official use;

(3) Donation or loan;

(4) Sale; or

(5) Destruction.

(c) *Purposes of disposal.* Disposal procedures may be used to alleviate overcrowding of evidence storage facilities; to avoid the accumulation of seized property where disposal is not otherwise accomplished by court order; to address the needs of governmental agencies and other institutions and organizations for such property for scientific, educational, and public display purposes; and for other valid reasons. In no case will property be used for personal purposes, either by loan recipients or government personnel.

(d) *Disposal of evidence.* Property that is evidence may be disposed of only after authorization by the NOAA Office of General Counsel. Disposal approval usually will not be given until the case involving the evidence is closed, except that perishable property may be authorized for disposal sooner.

(e) *Loans*—(1) *To institutions.* Property approved for disposal may be loaned to institutions or organizations requesting such property for scientific, educational, or public display purposes. Property will be loaned only after execution of a loan agreement which provides, among other things, that the loaned property will be used only for noncommercial scientific, educational, or public display purposes, and that it will remain the property of the U.S. Government, which may demand its return at any time. Parties requesting the loan of property must demonstrate the ability to provide adequate care and security for the property. Loans may be made to responsible agencies of foreign governments in accordance with the Convention on International Trade in Endangered Species of Wild Fauna and Flora.

(2) *To individuals.* Property generally will not be loaned to individuals not affiliated with an institution or organization unless it is clear that the property will be used in a noncommercial manner, and for scientific, educational, or public display purposes which are in the public interest.

(3) *Selection of loan recipients.* Recipients of property will be chosen so as to

assure a wide distribution of the property throughout the scientific, educational, public display and museum communities. Other branches of NMFS, NOAA, the Department of Commerce, and other governmental agencies will have the right of first refusal of any property offered for disposal. The Administrator may solicit applications, by publication of a notice in the FEDERAL REGISTER, from qualified persons, institutions, and organizations who are interested in obtaining the property being offered. Such notice will contain a statement as to the availability of specific property for which transferees are being sought, and instructions on how and where to make application. Applications will be granted in the following order: other offices of NMFS, NOAA, and the Department of Commerce; U.S. Fish and Wildlife Service; other Federal agencies; other governmental agencies; scientific, educational, or other public or private institutions; and private individuals.

(4) *Loan agreement.* Property will be transferred under a loan agreement executed by the Administrator and the borrower. Any attempt on the part of the borrower to retransfer property, even to another institution for related purposes, will violate and invalidate the loan agreement, and entitle the United States to immediate repossession of the property, unless the prior approval of the Administrator has been obtained under § 904.510(d)(5). Violation of the loan agreement may also subject the violator to the civil penalties provided by the laws governing possession and transfer of the property.

(5) *Temporary reloans; documents to accompany property.* Temporary reloans by the borrower to another qualified borrower (as for temporary exhibition) may be made if the Administrator is advised in advance by the borrowers. Temporary loans for more than thirty days must be approved in advance in writing by the Administrator. A copy of the original loan agreement, and a copy of the written approval for reloan, if any, must accompany the property whenever it is temporarily reloaned or is shipped or transported across state or international boundaries.

(f) *Sale.* (1) Any fish, wildlife, parts or products thereof, and other property

which has been voluntarily forfeited by abandonment to NOAA may be sold or offered for sale, with the exception of any species or property which is otherwise prohibited from being sold at the time it is to be sold or offered for sale.

(2) Property will be sold in accordance with current Federal Property Management Regulations (41 CFR chapter 101) or U.S. Customs laws and regulations, except that NOAA may:

(i) Sell at fair market value perishable fish pursuant to the summary sales provisions of 15 CFR 904.505; and

(ii) Sell, destroy, or otherwise dispose of property for which it is determined the expense of keeping it is disproportionate to the value thereof.

(3) The proceeds of sale may be used to reimburse NOAA for any costs which by law NOAA is authorized to recover or to pay any rewards which by law may be paid from sums that NOAA receives.

(g) *Destruction.* (1) Property not otherwise disposed of may be destroyed.

(2) Destruction will be accomplished in accordance with the requirements of 41 CFR parts 101 through 145.

(3) When destroyed, the fact, manner, and date of destruction and the type and quantity destroyed must be certified by the official actually destroying the property.

(4) No duly authorized officer of NOAA shall be liable for the destruction or other disposition of property made pursuant to this section.

(h) *Recordkeeping.* A disposal form will be completed each time property is disposed of pursuant to the policy and procedure established herein, and will be retained in the case file for the property. These forms will be available to the public.

§ 904.510 Return of seized property.

(a) *Return.* In cases where NOAA, in its sole discretion, determines that forfeiture of seized property would not be in the best interest of the U.S. Government, NOAA will make a reasonable attempt to determine the party that the facts of record indicate has a predominant ownership interest in the seized property and, provided such a determination can be made, will arrange for return of the seized property to that party by appropriate means.